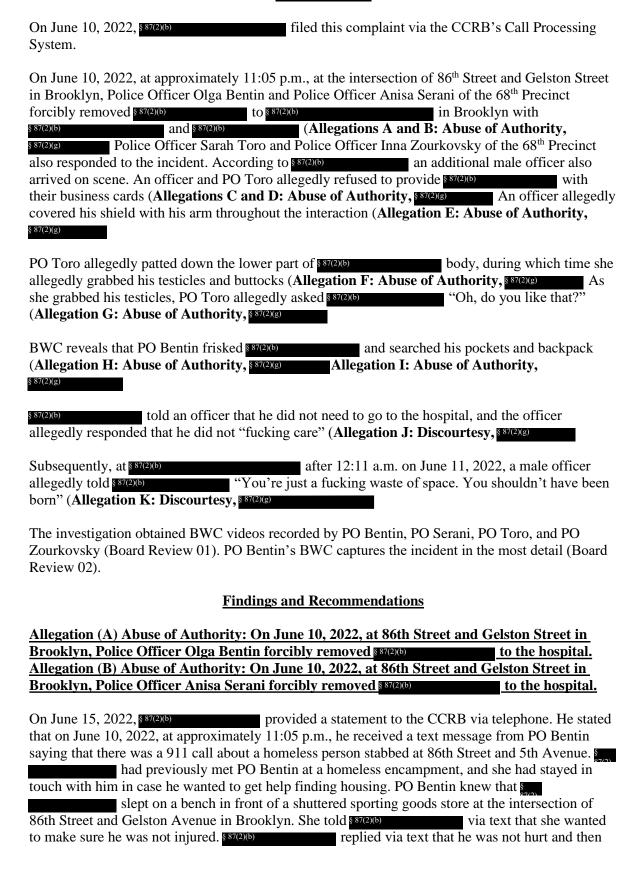
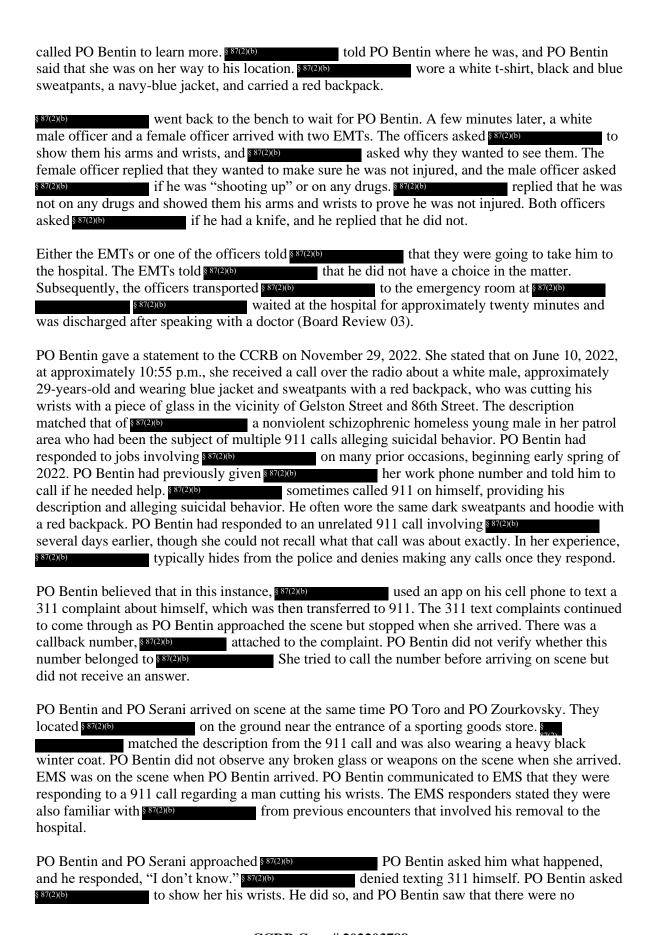
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	To	Force	$\overline{\mathbf{V}}$	Discourt.		J.S.
Stephanie Dukich		Squad #08	202203788	☑	Abuse		O.L.	☐ Iı	njury
Incident Date(s)		Location of Incident:			18 N	18 Mo. SOL		Precinct:	
Friday, 06/10/2022 11:05 PM, Saturday, 06/11/2022 12:11 AM		86th Street and Gelston Street in Brooklyn; S87(2)(6) in Brooklyn			12/	10/20	23		68
Date/Time CV Reported		CV Reported At:	How CV Reported	l:	Date/Tin	ne Rec	eived at CC	RB	
Fri, 06/10/2022 11:24 PM		CCRB	Call Processing System		Fri, 06/10	0/2022	11:24 PM		
Complainant/Victim	Type	Home Add	ress						
Witness(es)		Home Add	lress						
Subject Officer(s)	Shield	TaxID	Command						
1. An officer									
2. PO Olga Bentin	03321	968962	068 PCT						
3. PO Sarah Toro	24124	969396	068 PCT						
4. PO Anisa Serani	11784	965863	068 PCT						
Witness Officer(s)	Shield N	o Tax No	Cmd Name						
1. PO Inna Zourkovsky	25126	970342	068 PCT						
Officer(s)	Allegati	on			Inv	estiga	ator Recor	nmend	lation
		On June 10, 2022, at 86th Street and Gelston Street							
	in Brook § 87(2)(b)	lyn, Police Officer Ol to the hos		nove	ed				
B.PO Anisa Serani	Abuse: (On June 10, 2022, at 86	-	Str	eet				
	in Brook § 87(2)(b)	lyn, Police Officer Ar to the hos		mov	ed				
C. An officer	Abuse: 0	On June 10, 2022, at 86	-	Str	eet				
	in Brook	lyn, an officer failed t isiness card.							
D.PO Sarah Toro		ismess card. On June 10, 2022, at 86	6th Street and Gelston	Str	eet				
D.1 O Sarah Toro	in Brook	lyn, Police Officer Sa	rah Toro failed to pro						
E A 66	§ 87(2)(b)		siness card.	C.					
E. An officer		On June 10, 2022, at 80 lyn, an officer obstruc			eet				
F.PO Sarah Toro Abuse:		On June 10, 2022, at 86th Street and Gelston Street							
	in Brook § 87(2)(b)	lyn, Police Officer Sa	rah Toro forcibly touc	hed					
G.PO Sarah Toro		On June 10, 2022, at 86	6th Street and Gelston	Str	eet				
	in Brook	lyn, Police Officer Sa we remark to § 87(2)(6)							

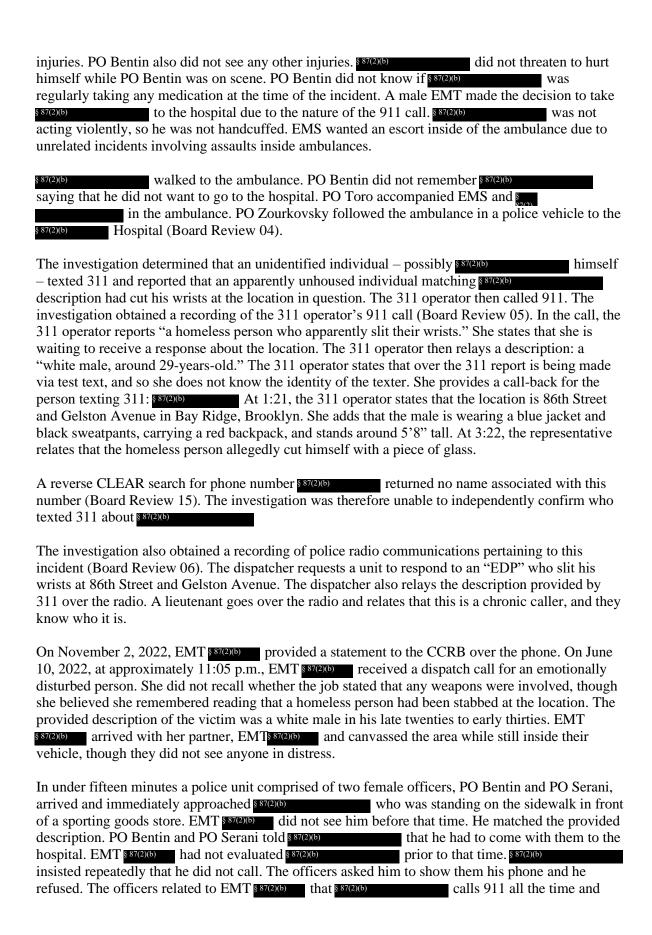
Officer(s)	Allegation	Investigator Recommendation
H.PO Olga Bentin	Abuse: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Olga Bentin frisked (87(2))	
I.PO Olga Bentin	Abuse: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Olga Bentin searched [887(2)]	
J. An officer	Discourtesy: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, an officer spoke discourteously to \$87(2)	
K. An officer	Discourtesy: On June 11, 2022, at 4802 10th Avenue in Brooklyn, an officer spoke discourteously to [87(2)]	

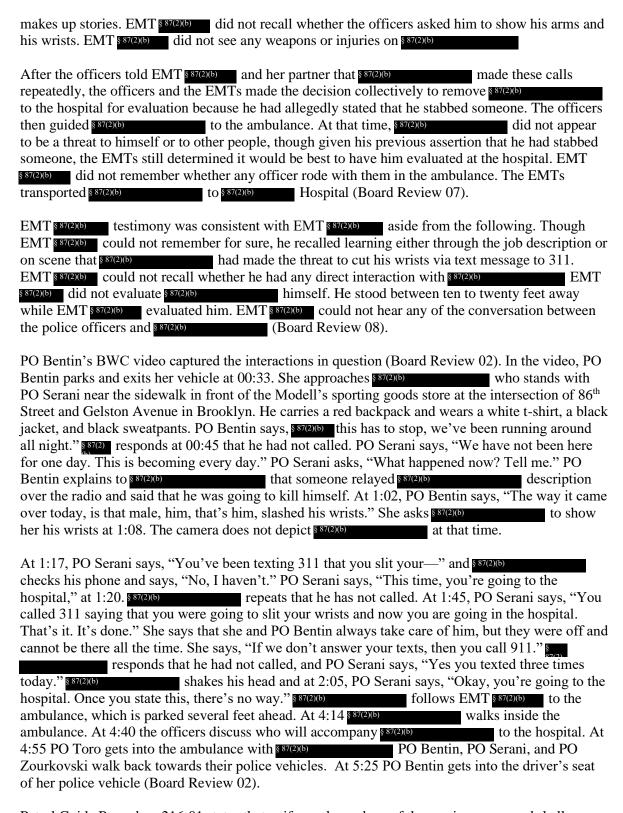
Case Summary





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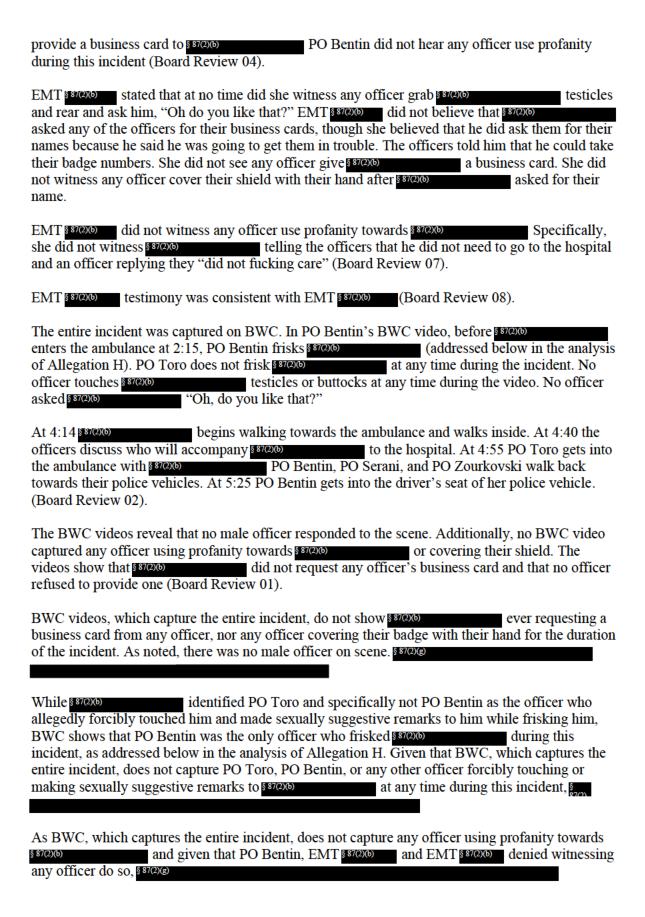




<u>Patrol Guide Procedure 216-01</u> states that uniformed members of the service concerned shall cooperate with ambulance/hospital personnel in every reasonable manner (Board Review 09).

<u>Patrol Guide Procedure 221-13</u> defines an "emotionally disturbed person" as a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others, and instructs that officers remove such persons to a hospital for evaluation (Board Review 10).

The EMTs and officers in question received a radio communication that an individual matching description and location was cutting his wrists. As such, the officers reasonably believed might imminently cause serious injury to himself. Further, EMT testified that PO Bentin and PO Serani conferred with the EMTs, who agreed that should be removed to the hospital for psychiatric evaluation based on his threats to harm himself.
Allegation (C) Abuse of Authority: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, an officer failed to provide (STO) with a business card. Allegation (D) Abuse of Authority: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Sarah Toro failed to provide (STO) with a business card.
Allegation (E) Abuse of Authority: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, an officer obstructed his shield number. Allegation (F) Abuse of Authority: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Sarah Toro forcibly touched Allegation (G) Abuse of Authority: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Sarah Toro made a sexually suggestive remark to Allegation (J) Discourtesy: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn,
described a male officer responding to this incident. He stated that before officers escorted him to the ambulance, he asked both the male officer and PO Toro for their business cards, but they refused to provide them to him. Additionally, the male officer had his arms folded across his chest and covered his badge with his arm for the entire incident. The male officer told PO Toro to pat (STO) down and check for any knives. PO Toro patted down the lower body of (STO) them (STO) and asked, "Oh, do you like that?" and asked, "Oh, do you like that?" and asked, "Oh, do you like that?" the public that he did not and that it was very disrespectful. PO Toro also grabbed buttocks for a few seconds.
told the officers that there was nothing wrong with him and he did not need to go to the hospital. The male officer responded that he did not "fucking care" (Board Review 03).
PO Bentin testified that there were no male officers present during this incident. She stated that she did not witness an officer grab strong testicles or buttocks and denied doing so herself. She did not witness any officer ask strong "Oh, do you like that?" She did not do so herself. PO Bentin did not remember strong officer say that they "did not fucking care" that did not want to go to the hospital. PO Bentin was on scene. PO Bentin did not observe any officer refuse to



Allegation (H) Abuse of Authority: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Olga Bentin frisked ছুগুটো Allegation (I) Abuse of Authority: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Olga Bentin searched § 87(2)(b) stated that he carried his cellphone, charger, headphones, and ID in the left side pocket of his jacket, and a water bottle in the left pocket of his sweatpants. He did not have any items in either of his right pockets. The items did not make a bulge in his pockets. described PO Toro patting his lower body, but did not specify the manner of the frisk other than describing an officer frisking his groin (addressed above). After PO Toro finished she asked to check his backpack. § 87(2)(6) replied that she could as long as her BWC was turned on. PO Toro opened his bag and looked inside briefly (Board Review 03). BWC shows that, in fact, PO Bentin was the only officer who frisked and searched In PO Bentin's BWC, at 2:15 she says, "I have to check, and make sure that you have no knife." At 2:49, PO Bentin uses her right hand to press \$87(2)(6) jacket pocket against his body, then reaches into it at 2:50. She feels inside the pocket but does not visibly recover anything. PO Bentin then pats down \$87(2)(0) right pocket at 3:01 and reaches inside at 3:02. At 3:05 she retrieves a pack of cigarettes from the pocket and puts it back jacket, pats down his waist area, then pats inside. At 3:08 PO Bentin unzips § 87(2)(6) down his left inner jacket pocket from 3:13 until 3:16. She reaches into the pocket at 3:17 and searches until 3:23, at which time she exits the pocket without recovering anything. At 3:24, PO Bentin uses her right hand to reach inside §87(2)(6) right inner jacket pocket while her left arm holds the jacket near the pocket area. She does not pat the pocket down first. She concludes her search of the pocket at 3:29 without recovering anything. At 3:42, PO Bentin then does another pat down of the outside of \$87(2)(6) iacket and of his right leg. At 3:50 PO Bentin pats down and unzips the small outside pocket of backpack and appears to reach inside it until 4:01, though part of her hand and the pocket is out of the frame. PO Bentin pats down the backpack again and asks \$87(2)(b) he has anything inside the backpack, to which he responds, "No". §\$7(2)(b) then walks to the ambulance (Board Review 02). EMT \$37(2)(0) states that one of the officers, though she could not recall who, patted down pockets, lower body, sweater, and arms. EMT \$87(2)(6) did not recall whether she saw any bulges on § 87(2)(b) body. § 87(2)(b) did not give consent for any of the officers to search him. EMT \$87(2)(6) did not recall whether \$87(2)(6) had a backpack on him, nor whether any officer searched inside that backpack. The officers did not recover anything from the pat down of §87(2)(b) other than his cell phone (Board Review 07). PO Bentin testified that she frisked \$87(2)(6) before he entered the ambulance because of her understanding that he sometimes carried knives and because the 911 call indicated that cut himself with a sharp object. PO Bentin did not have any independent information about § 87(2)(b) carrying a knife or any other weapon on his person that day.

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PO Bentin did not see any bulge on \$87(2)(b)

person before initiating the frisk. She

patted down patterned in packet and felt a hard rectangular object approximately three to four inches long and two inches wide inside one of the upper pockets. The pocket was inside the jacket, so PO Bentin asked to unzip it. PO Bentin could not tell if it was sharp through the jacket fabric but thought that it could be a knife, so she reached into the pocket, where she felt a cigarette lighter and a cellphone. The cellphone was smaller than PO Bentin's cellphone, which is approximately two and a half by seven inches. PO Bentin did not remove the items. PO Bentin then felt a hard, square-shaped object in a lower jacket pocket. PO Bentin thought this object could be a knife, so she reached into the pocket and retrieved another cigarette lighter and a pack of cigarettes, which she then returned. PO Bentin then patted down pants pockets. According to the pocket without patting it down first. PO Bentin frisked street. PO Bentin denied reaching into any pocket without patting it down first. PO Bentin frisked street.

Given her prior familiarity with \$87(2)(6) who she believed sometimes kept knives and razors in his backpack, PO Bentin asked him to turn around and then squeezed and patted the backpack while he was wearing it. PO Bentin felt a long, hard, and narrow object about the size of a pen in one of the backpack pockets which she believed could be a knife or razor. PO Bentin then opened the pocket to the backpack and saw a toothbrush inside. She did not remember if she saw anything else in the pocket. PO Bentin asked \$87(2)(6) if he had anything on his person that could use to harm himself and he said that he did not. PO Bentin continued to pat down the backpack and could feel glass bottles inside, along with soft material like clothes. PO Bentin did not open the top part of the backpack. She did not ask for consent before entering the backpack.

During the CCRB interview, PO Bentin was presented with her BWC footage from June 10, 2022, linked in IA #25. The video was played from 2:24 until 3:02. The video refreshed PO Bentin's recollection of unzipping § 87(2)(b) iacket, and of where she searched on his person. PO Bentin stated that she entered § 87(2)(b) ■ left pocket because she felt a hard, square object inside. Though she heard \$87(2)(b) say that there was a cellphone charger inside, she did not recall feeling or recovering a cellphone charger. The undersigned continued to play the video from 3:02 until 3:23. PO Bentin stated that the front right pocket was where she felt the cigarettes and lighter and proceeded to search it rectangular shape of § 87(2)(b) believing it could have been a knife. PO Bentin believed she also felt a cellphone when she touched the upper right pocket of \$87(2)(b) jacket, which is why she looked inside. The undersigned continued to play the video from 3:23 until 3:33. PO Bentin did not remember why she entered the upper right pocket on the inside of §87(2)(b) jacket, though she stated that she thought she felt something. She could not recall what she felt. There was no other reason that PO Bentin searched \$87(2)(b) other than to make sure that he did not have any weapons (Board Review 04).

People v. De Bour, 40 N.Y.2d 210 (1976) established that a police officer has the authority to frisk if the officer reasonably suspects that he is in danger of physical injury by virtue of a detainee being armed (Board Review 11).

People v. Bracy, 91 A.D.3d 1296 (2012) affirmed that officers may seize an object following a legal frisk if they reasonably believe it to be a weapon. The court ruled that after feeling a hard object which an officer reasonably feared to be a weapon during the frisk of a defendant's pocket, the officer did not act unlawfully in reaching into the pocket and removing the object (Board Review 12).

The ruling in *People v. Emerhall*, 694 N.Y.S.2d 870 (1999) states that if a bag is flexible and its contents can be felt by touching its exterior, an officer may not open the bag without first patting it

down, and that such a bag may be opened for a search only when after a pat down, the officer reasonably believes it contains a weapon (Board Review 13).

BWC shows that PO Bentin was the only officer who frisked \$87(2)(b) Given that PO Bentin received information via radio that \$87(2)(b) had used a piece of glass to cut
himself, \$57(2)(g)
Contrary to statement, PO Bentin did not ask for consent prior to searching his backpack. BWC depicts PO Bentin frisking the outer pocket of statement, PO Bentin described feeling a long, hard object inside bag's pocket when she patted it down, it was reasonable for her to believe that that object could be a knife. Per <i>People v. Emerhall</i> , it was therefore reasonable for her to open and inspect the contents of that portion of the bag.
While PO Bentin only recalled searching two of store in four jacket pockets, BWC in fact shows her searching all four of the pockets. After reviewing her BWC, PO Bentin testified that she felt hard, rectangular objects in three of store in four pockets prior to searching them, and that she felt a cigarette lighter approximately two to three inches long in two of the pockets she searched. While it is reasonable to believe that the shape of a lighter could resemble that of a pocketknife, PO Bentin failed to articulate how the hard, square-shaped object she allegedly felt in store. Furthermore, PO Bentin could not recall what she felt when she patted down the right inner pocket of jacket prior to entering it, nor did she recover anything from that pocket.
Given that PO Bentin did not have adequate reason to believe that the object she allegedly felt inside \$87(2)(6) front left pocket upon frisking that pocket was a knife or any other weapon, and that she could not articulate any reason to believe that the inner right pocket of jacket contained a weapon beyond stating that she felt "something," \$87(2)(8)
Allegation (K) Discourtesy: On June 11, 2022, at 4802 10th Avenue in Brooklyn, an officer spoke discourteously to \$87(2)(b)
stated that at stated
EMT did not recall whether any officers escorted them inside the hospital waiting area. She did not witness any officer tell 587(2)(6) "You're such a fucking waste of space. You shouldn't have been born" (Board Review 07).
PO Bentin did not witness any officer tell §87(2)(b) "You're a fucking waste of space you shouldn't have been born," at the hospital (Board Review 04).
identified the same male as the officer who spoke discourteously to him both before he entered the ambulance and at the hospital. However, no male officer was present during this incident. Because \$87(2)(6) description of the officer in question was inconsistent with the apparent gender of any officer actually present.

Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Bentin has been a member-of-service for two years and this is the first CCRB complaint to which she has been a subject.
- PO Serani has been a member-of-service for four years and this is the first CCRB complaint to which she has been a subject.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- On December 16, 2022, a Notice of Claim FOIL request was filed with the New York City
 Office of the Comptroller (Board Review 14). The results are pending as of the writing of this
 report.

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]		
Squad:8		
Investigator: Stephanie Dukich Signature	Inv. Stephanie Dukich Print Title & Name	December 22, 2022 Date
Squad Leader: <u>Samuel Ross</u> Signature	SI Samuel Ross Print Title & Name	12/22/2022 Date
Reviewer:Signature	Print Title & Name	Date